

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 11429 of 1994

Between:

Angara Nookaraju S/o Nookalamma
R/o Degalapalem, H/o Kommika,
Chintapalli Taluk Visakhapatnam District.

..... PETITIONER

AND

1. Agency Divisional Officer & Special Deputy Collector (Tribal Welfare),
Paderu.
2. Agent to Government & Collector, Visakhapatnam
3. Gadi Patrunaidu S/o Sanyasinaidu
R/o Kantaram (V), Viskhapatnam
4. Gadi Appalanaidu S/o Sanyasinaidu
R/o Kataram (V), Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of certiorari to call for records and quash the order of the 1st respondent in L.T.R.No.305/79, dated 23-1-1993 as confirmed by the 2nd respondent in A.S.No.3/93, dated 12-5-1994 by declaring that the petitioner is a tribal and the sale transactions held in 1966 & 1967 between a non tribal and tribal is illegal and void.

Counsel for the Petitioner: MR.T.S.VENKATA RAMANA

Counsel for the Respondent Nos.1&2: GP FOR SOCIAL WELFARE

Counsel for the Respondent Nos.3&4: Dr. P. B. VIJAY KUMAR.

The Court made the following:

ORDER:

This writ petition is filed challenging the orders passed by the 1st respondent Agency Divisional Officer and Special Deputy Collector (Tribal Welfare) Paderu in L.T.R.No.305/79, dated 23-01-1993 as confirmed by the 2nd respondent Agent to Government & Collector, Visakhapatnam in A.S.No.3/93 dated 12-05-1994 and to declare that the petitioner is a tribal and therefore the sale transactions held in 1966 and 1967 are illegal and void.

2. The petitioner states that himself and his father-in-law sold land in an extent Ac.2-50 cents each in S.Nos.52 and 56 and Ac.3-00 in S.No.78 of Degalapalem village on 14-03-1967 and on 06-05-1966 in favour of the respondents 3 and 4 herein, who are non-tribal and therefore the sale deeds between them and the respondents 3 and 4 are hit by the provisions of the Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970.

3. Initially, the petitioner filed L.T.R.No.305 of 1979 before the 1st respondent Agency Divisional Officer and Special Deputy Collector (Tribal Welfare) Paderu contending that that the sale transactions are hit by the provisions of the above Regulation and the first respondent by its order dated 30-04-1980 ordered for ejectment of the respondents 3 and 4 herein and for restoration of the possession to the petitioner, since the sale transactions are hit by the provisions of the above Regulation. Aggrieved by the said order, the respondents 3 and 4 have filed A.S.No.14 of 1980 before the 2nd respondent Agent to Government & Collector, Visakhapatnam. The 2nd respondent, however, remitted back the matter to the 1st respondent authority by his order dated 02-07-1984 in A.S.No.14 of 1980. The relevant portion reads as under—

“The dispute is mainly related to the Caste of the respondent, I have, therefore, not gone into the merits of the operative portion of the judgment of the lower Court. In the result, I hold the view that in the circumstances cropped up consequent on the cancellation of S.T. Certificate issued in favour of the respondent and further documentary evidence produced that this is a fit case for remand for fresh trial and to pass appropriate order as it deemed fit after going into the merits of the caste of the respondent in this appeal. Accordingly, the case is remanded to the lower Court”.

4. Thereafter, the first respondent Agency Divisional Officer and Special Deputy

Collector (Tribal Welfare) Paderu, *inter alia* observed that as per the document No.341, the land was purchased in 1967 and that the sales as per Regulation I of 1970 have no retrospective effect, and, therefore, the sale is not hit by the Land Transfer Regulation Provisions and therefore dropped all further proceedings by his order dated 23-01-1993. The relevant portion reads as under—

”As per the sale document No.241, the land was purchased in 1967.

Regulation I of 1970, which prohibits the sales in between non-tribals, has no retrospective operation. The sale took place between non-tribals in 1967.

Hence, I consider that this case cannot attract the Land Transfer Regulation provisions, which contemplates only transfer in between non-tribal and tribal and vice versa in the given period.

I, therefore, find the purchase of the land by the non-tribal respondents from the non-tribal petitioner is not hit by Land transfer Regulation provisions”.

5. Aggrieved by the said order the petitioner filed A.S.No.3 of 1993 before the 2nd respondent Agent to Government & Collector, Visakhapatnam, who by his order dated 12-05-1994 confirmed the orders passed by the first respondent authority.

6. The first respondent observed that since the land was purchased in the year 1967 and as per the land regulation, which has no retrospective effect, and that, the purchase of the land by the respondents 3 and 4 from the petitioner is not hit by the said provision.

7. The learned counsel for the petitioner contended that the 1st respondent has not adverted to the plea with regard to the caste of the petitioner, and the 2nd respondent authority has confirmed the same.

8. Admittedly, the sale transactions took place prior to the advent of Regulation of 1970. The claim of the petitioner is that the first respondent authority has not adverted to the plea of his caste certificate. Admittedly, plea with regard to the cancellation of the caste certificate by the Tahasildar was raised by the un-official respondents before the first respondent itself. The first respondent authority has dropped further action on the ground that Regulation 1970 has no retrospective effect about the sale took place between the tribal and non-tribal in the year 1967. Since the first respondent ordered, without giving a clear finding as to whether the

petitioner is a non-tribal or not and the same was confirmed by the second respondent authority, to meet the ends of justice, at this juncture, I deem it fit and appropriate to remit back the matter to the second respondent authority for its proper consideration, and disposal as per law uninfluenced by any of the observations made in this order.

9. In the result, the impugned orders are set aside, and the Writ petition is accordingly disposed of. No order as to costs.

29th JULY 2004

Glv/KK

Copies to

1. The Agency Divisional Officer & Special Deputy Collector (Tribal Welfare), Paderu.
2. The Agent to Government & Collector, Visakhapatnam
3. Two C.Cs. to the Government Pleader for Social Welfare, High Court Buildings, Hyderabad. (O.U.T)
4. Two CD copies.